

subsidies so eligible families can afford rent for decent, safe, and sanitary housing. Both programs are administered by State, local governmental or tribal bodies called housing agencies (HAs). HUD provides funds to an HA for rent subsidy on behalf of eligible families. HUD also provides funds for HA administration of the programs.

(2) Families select and rent units that meet program housing quality standards. If the HA approves a family's unit and lease, the HA contracts with the owner to make rent subsidy payments on behalf of the family. An HA may not approve a lease unless the rent is reasonable.

(3) In the certificate program, the rental subsidy is generally based on the actual rent of a unit leased by the assisted family. In the voucher program, the rental subsidy is determined by a formula, and is not based on the actual rent of the leased unit.

(4) In the certificate program, the unit rent generally may not exceed a HUD-published fair market rent for rental units in the local housing market. For most families, the subsidy is the difference between the unit rent and 30 percent of adjusted monthly income. In the voucher program, the subsidy for most families is the difference between 30 percent of adjusted monthly income and a "payment standard" that is based on the HUD-published fair market rent. If the unit rent is less than the voucher payment standard, the family pays a smaller share of the rent. If the unit rent is more than the payment standard, the family pays a larger share of the rent.

(b) *Tenant-based and project-based assistance.* (1) Section 8 assistance may be "tenant-based" or "project-based". In project-based programs, rental assistance is paid for families who live in specific housing developments or units. With tenant-based assistance, the assisted unit is selected by the family. The family may rent a unit anywhere in the United States in the jurisdiction of an HA that runs a certificate or voucher program.

(2) Except for project-based assistance under the certificate program (covered in 24 CFR part 983), all assistance under the certificate and voucher programs is "tenant-based". After the

family selects a suitable unit, the HA enters into a contract with the owner to make rent subsidy payments to the owner to subsidize occupancy by the family. The contract only covers a single unit and the specific assisted family. If the family moves out of the leased unit, the contract with the owner terminates. In the tenant-based programs, the family may move to another unit with continued assistance so long as the family is complying with program requirements.

§ 982.2 Applicability.

(a) Part 982 is a unified statement of program requirements for the tenant-based housing assistance programs under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f). The tenant-based programs are the Section 8 tenant-based rental certificate program and the Section 8 rental voucher program.

(b) Unless specifically stated in this part, requirements for both tenant-based programs are the same.

§ 982.3 HUD.

The HUD field offices have been delegated responsibility for day-to-day administration of the program by HUD. In exercising these functions, the field offices are subject to HUD regulations and other HUD requirements issued by HUD headquarters. Some functions are specifically reserved to HUD headquarters.

§ 982.4 Definitions.

(a) *Definitions found elsewhere:*

(1) *Statutory definitions.* The terms *displaced person*, *elderly person*, *low-income family*, *person with disabilities*, *public housing agency*, *State*, and *very low-income family* are defined in section 3(b) of the 1937 Act (42 U.S.C. 1437a(b)). For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term *person with disabilities* means *individual with handicaps* as defined in 24 CFR 8.3.

(2) *General definitions.* The terms *1937 Act*, *Housing agency (HA)*, *HUD*, and *MSA*, are defined in 24 CFR part 5, subpart A.

(3) *Definitions under the 1937 Act.* The terms *annual contributions contract*

(ACC), and *live-in aide* are defined in 24 CFR part 5, subpart D.

(4) *Definitions concerning family income and rent.* The terms *adjusted income*, *annual income*, *tenant rent*, *total tenant payment*, *utility allowance*, and *utility reimbursement* are defined in 24 CFR part 5, subpart F.

(b) In addition to the terms listed in paragraph (a) of this section, the following definitions apply:

Absorption. In portability (under subpart H of this part 982): the point at which a receiving HA stops billing the initial HA for assistance on behalf of a portability family. The receiving HA uses funds available under the receiving HA consolidated ACC.

Administrative fee. Fee paid by HUD to the HA for administration of the program. See §982.152.

Administrative fee reserve (formerly “operating reserve”). Account established by HA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155.

Administrative plan. The plan that describes HA policies for administration of the tenant-based programs. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Budget authority. An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in an HA program, budget authority is the maximum amount that may be paid by HUD to the HA over the ACC term of the funding increment.

Certificate. A document issued by an HA to a family selected for admission to the certificate program. The certificate describes the program and the procedures for HA approval of a unit se-

lected by the family. The certificate also states obligations of the family under the program.

Certificate program. The rental certificate program.

Certificate or voucher holder. A family holding a certificate or voucher with unexpired search time.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of this part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial HA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Act program when the family is admitted to the certificate or voucher program.

Contract authority. The maximum annual payment by HUD to an HA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

Domicile. The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Exception rent. An amount that exceeds the published FMR. See §982.504(b). See also definition of FMR/exception rent limit.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of

bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the FEDERAL REGISTER in accordance with 24 CFR part 888.

Family self-sufficiency program (FSS program). The program established by an HA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see § 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the HA under the HA subsidy standards.

FMR/exception rent limit. The Section 8 existing housing fair market rent published by HUD Headquarters, or any exception rent. For a regular tenancy in the certificate program, the initial rent to owner plus any utility allowance may not exceed the FMR/exception rent limit (for the selected dwelling unit or for the family unit size). For a tenancy in the voucher program, the HA may adopt a payment standard up to the FMR/exception rent limit. For an over-FMR tenancy in the certificate program, the payment standard is the FMR/exception rent limit.

Funding increment. Each commitment of budget authority by HUD to an HA under the consolidated annual contributions contract for the HA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see § 982.610 to § 982.614.

HAP contract. Housing assistance payments contract.

Housing assistance payment. The monthly assistance payment by an HA, which includes:

(1) A payment to the owner for rent to the owner under the family's lease; and

(2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the tenant-based programs. See § 982.401.

Initial HA. In portability, the term refers to both:

(1) An HA that originally selected a family that later decides to move out of the jurisdiction of the selecting HA; and

(2) An HA that absorbed a family that later decides to move out of the jurisdiction of the absorbing HA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Jurisdiction. The area in which the HA has authority under State and local law to administer the program.

Lease. (1) A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the HA.

(2) In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's cooperative dwelling unit by the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the HA. For purposes of this part 982, the cooperative is the Section 8 "owner" of the unit, and the cooperative member is the Section 8 "tenant."

Lease addendum. In the lease between the tenant and the owner, the lease language required by HUD.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see § 982.620 and § 982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See § 982.622 to § 982.624.

Mutual housing. Included in the definition of "cooperative."

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the FEDERAL REGISTER document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Over-FMR tenancy. In the certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

Participant (participant family). A family that has been admitted to the HA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the HA for the family (first day of initial lease term).

Payment standard. In a voucher or over-FMR tenancy, the maximum subsidy payment for a family (before deducting the family contribution). For a voucher tenancy, the HA sets a payment standard in the range from 80 percent to 100 percent of the current FMR/exception rent limit. For an over-FMR tenancy, the payment standard equals the current FMR/exception rent limit.

Portability. Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial HA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Private space. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

Reasonable rent. A rent to owner that is not more than rent charged:

- (1) For comparable units in the private unassisted market; and
- (2) For comparable unassisted units in the premises.

Receiving HA. In portability: An HA that receives a family selected for participation in the tenant-based program of another HA. The receiving HA issues a certificate or voucher and provides program assistance to the family.

Regular tenancy. In the certificate program: A tenancy other than an over-FMR tenancy.

Rent to owner. The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see § 982.615 to § 982.618.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see § 982.602 to § 982.605.

Special admission. Admission of an applicant that is not on the HA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of this part 982. Subpart M of this part states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Subsidy standards. Standards established by an HA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's certificate or voucher, for such period as determined by the HA, from the time when the family submits a request for HA approval to lease a unit, until the time when the HA approves or denies the request.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. In the certificate program: The total tenant payment minus any utility allowance. (This term applies both to a regular tenancy and an over-FMR tenancy.)

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (rental voucher). A document issued by an HA to a family selected for admission to the voucher program. This document describes the program and the procedures for HA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher program. The rental voucher program.

Waiting list admission. An admission from the HA waiting list.

[63 FR 23857, Apr. 30, 1998; 63 FR 31625, June 10, 1998]

§ 982.5 Notices required by this part.

Where part 982 requires any notice to be given by the HA, the family or the owner, the notice must be in writing.

Subpart B—HUD Requirements and HA Plan for Administration of Program

SOURCE: 60 FR 34695, July 3, 1995, unless otherwise noted.

§ 982.51 HA authority to administer program.

(a) The HA must be a governmental entity or public body with authority to administer the tenant-based program. The HA must provide HUD evidence, satisfactory to HUD, of such authority, and of the HA jurisdiction.

(b) The evidence submitted by the HA to HUD must include enabling legislation and a supporting legal opinion satisfactory to HUD. The HA must submit

additional evidence when there is a change that affects its status as an HA, authority to administer the program, or the HA jurisdiction.

§ 982.52 HUD requirements.

(a) The HA must comply with HUD regulations and other HUD requirements for the program. HUD requirements are issued by HUD headquarters, as regulations, FEDERAL REGISTER notices or other binding program directives.

(b) The HA must comply with the consolidated ACC and the HA's HUD-approved applications for program funding.

(Approved by the Office of Management and Budget under control number 2577-0169)

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995]

§ 982.53 Equal opportunity requirements.

(a) The tenant-based program requires compliance with all equal opportunity requirements imposed by contract or federal law, including the authorities cited at 24 CFR 5.105(a) and title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*

(b) For the application of equal opportunity requirements to an Indian Housing Authority, *see* 24 CFR 950.115.

(c) The HA must submit a signed certification to HUD of the HA's intention to comply with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act.

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[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 63 FR 23859, Apr. 30, 1998]

§ 982.54 Administrative plan.

(a) The HA must adopt a written administrative plan that establishes local policies for administration of the program in accordance with HUD requirements. The administrative plan and any revisions of the plan must be formally adopted by the HA Board of Commissioners or other authorized HA officials. The administrative plan